

**Calendar No. 411**

106TH CONGRESS  
1ST SESSION

**S. 1627**

**[Report No. 106-220]**

---

---

**A BILL**

To extend the authority of the Nuclear Regulatory  
Commission to collect fees through 2004, and for  
other purposes.

---

---

NOVEMBER 9, 1999

Reported with an amendment and an amendment to the  
title

## Calendar No. 411

106TH CONGRESS  
1ST SESSION**S. 1627****[Report No. 106-220]**

To extend the authority of the Nuclear Regulatory Commission to collect fees through 2004, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 23 (legislative day, SEPTEMBER 22), 1999

Mr. INHOFE introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

NOVEMBER 9, 1999

Reported by Mr. SMITH of New Hampshire, with an amendment and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in *italic*]

---

**A BILL**

To extend the authority of the Nuclear Regulatory Commission to collect fees through 2004, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “NRC Fairness in  
5       Funding Act of 1999”.

1 **SEC. 2. NUCLEAR REGULATORY COMMISSION ANNUAL**  
 2 **CHARGES.**

3 Section 6101 of the Omnibus Budget Reconciliation  
 4 Act of 1990 (42 U.S.C. 2214) is amended—

5 (1) in subsection (a)(3), by striking “September  
 6 30, 1999” and inserting “September 30, 2004”; and

7 (2) in subsection (c)—

8 (A) by striking paragraph (2) and insert-  
 9 ing the following:

10 “(2) AGGREGATE AMOUNT OF CHARGES.—The  
 11 aggregate amount of the annual charges collected  
 12 from all licensees shall equal an amount that ap-  
 13 proximates 100 percent of the budget authority of  
 14 the Commission for the fiscal year for which the  
 15 charge is collected, less, with respect to the fiscal  
 16 year, the sum of—

17 “(A) any amount appropriated to the Com-  
 18 mission from the Nuclear Waste Fund;

19 “(B) the amount of fees collected under  
 20 subsection (b); and

21 “(C) for fiscal year 2000 and each fiscal  
 22 year thereafter, to the extent provided in para-  
 23 graph (5), the costs of activities of the Commis-  
 24 sion with respect to which a determination is  
 25 made under paragraph (5).”; and

26 (B) by adding at the end the following:

1           ~~“(5) EXCLUDED BUDGET COSTS.—~~

2                   ~~“(A) IN GENERAL.—In the budget request~~  
 3           ~~for fiscal year 2001 and each fiscal year there-~~  
 4           ~~after, the Commission shall—~~

5                   ~~“(i) determine the activities of the~~  
 6                   ~~Commission that could not be fairly and~~  
 7                   ~~equitably funded through assessments of~~  
 8                   ~~annual charges on a licensee or class of li-~~  
 9                   ~~cencee of the Commission; and~~

10                   ~~“(ii) subject to subparagraph (C), re-~~  
 11                   ~~quest that funding for the activities de-~~  
 12                   ~~scribed in clause (i) be appropriated to the~~  
 13                   ~~Commission out of the general fund of the~~  
 14                   ~~Treasury.~~

15                   ~~“(B) CONSIDERATIONS.—In making the~~  
 16                   ~~determination under subparagraph (A), the~~  
 17                   ~~Commission shall consider—~~

18                   ~~“(i) the extent to which activities of~~  
 19                   ~~the Commission provide benefits to persons~~  
 20                   ~~that are not licensees of the Commission;~~  
 21                   ~~and~~

22                   ~~“(ii) the extent to which the Commis-~~  
 23                   ~~sion cannot, as a matter of law, or does~~  
 24                   ~~not, as a matter of policy, assess fees or~~

1 charges on a licensee or class of licensee  
 2 that benefits from the activities.

3 “(C) ~~MAXIMUM EXCLUDED AMOUNT.~~—The  
 4 total amount of costs for which appropriations  
 5 from the general fund of the Treasury may be  
 6 sought by the Commission under subparagraph  
 7 (A)(ii) shall not exceed 12 percent of the budg-  
 8 et authority of the Commission for any fiscal  
 9 year.”.

10 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

11 (a) *SHORT TITLE.*—*This Act may be cited as the*  
 12 *“NRC Fairness in Funding Act of 1999”.*

13 (b) *TABLE OF CONTENTS.*—*The table of contents of this*  
 14 *Act is as follows:*

*Sec. 1. Short title; table of contents.*

**TITLE I—FUNDING**

*Sec. 101. Nuclear Regulatory Commission annual charges.*

*Sec. 102. Cost recovery from Government agencies.*

**TITLE II—OTHER PROVISIONS**

*Sec. 201. Office location.*

*Sec. 202. License period.*

*Sec. 203. Elimination of NRC antitrust reviews.*

*Sec. 204. Gift acceptance authority.*

*Sec. 205. Carrying of firearms by licensee employees.*

*Sec. 206. Unauthorized introduction of dangerous weapons.*

*Sec. 207. Sabotage of nuclear facilities or fuel.*

# ***TITLE I—FUNDING***

## ***SEC. 101. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.***

*Section 6101 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214) is amended—*

*(1) in subsection (a)(3), by striking “September 30, 1999” and inserting “September 30, 2005”; and*  
*(2) in subsection (c)—*

*(A) by striking paragraph (2) and inserting the following:*

*“(2) AGGREGATE AMOUNT OF CHARGES.—The aggregate amount of the annual charges collected from all licensees shall equal an amount that approximates 100 percent of the budget authority of the Commission for the fiscal year for which the charge is collected, less, with respect to the fiscal year, the sum of—*

*“(A) any amount appropriated to the Commission from the Nuclear Waste Fund;*

*“(B) the amount of fees collected under subsection (b); and*

*“(C)(i) for fiscal years 2001 and 2002, an amount equal to the amount of appropriations made to the Commission from the general fund of the Treasury in response to the request for ap-*

1        *appropriations referred to in paragraph*  
 2        *(5)(A)(ii)”; and*

3                *“(ii) for fiscal years 2003 through 2005, to*  
 4        *the extent provided in paragraph (5), the costs of*  
 5        *activities of the Commission with respect to*  
 6        *which a determination is made under paragraph*  
 7        *(5).”; and*

8                *(B) by adding at the end the following:*

9        *“(5) EXCLUDED BUDGET COSTS.—*

10                *“(A) IN GENERAL.—In the budget request*  
 11        *for fiscal year 2001 and each fiscal year there-*  
 12        *after, the Commission shall—*

13                *“(i) determine the activities of the*  
 14        *Commission that could not be fairly and eq-*  
 15        *uitably funded through assessments of an-*  
 16        *ual charges on a licensee or class of li-*  
 17        *cencee of the Commission; and*

18                *“(ii) subject to subparagraph (C), re-*  
 19        *quest that funding for the activities de-*  
 20        *scribed in clause (i) be appropriated to the*  
 21        *Commission out of the general fund of the*  
 22        *Treasury.*

23                *“(B) CONSIDERATIONS.—In making the de-*  
 24        *termination under subparagraph (A), the Com-*  
 25        *mission shall consider—*

1 “(i) the extent to which activities of the  
 2 Commission provide benefits to persons that  
 3 are not licensees of the Commission; and

4 “(ii) the extent to which the Commis-  
 5 sion cannot, as a matter of law, or does not,  
 6 as a matter of policy, assess fees or charges  
 7 on a licensee or class of licensee that benefits  
 8 from the activities.

9 “(C) *MAXIMUM EXCLUDED AMOUNT.*—The  
 10 total amount of costs for which appropriations  
 11 from the general fund of the Treasury may be  
 12 sought by the Commission under subparagraph  
 13 (A)(ii) for any fiscal year shall not exceed—

14 “(i) for fiscal years 2001 and 2002, 12  
 15 percent of the budget authority of the Com-  
 16 mission;

17 “(ii) for fiscal year 2003, 4 percent of  
 18 the budget authority of the Commission;

19 “(iii) for fiscal year 2004, 8 percent of  
 20 the budget authority of the Commission; or

21 “(iv) for fiscal year 2005, 12 percent of  
 22 the budget authority of the Commission.”.

23 **SEC. 102. COST RECOVERY FROM GOVERNMENT AGENCIES.**

24 Section 161w. of the Atomic Energy Act of 1954 (42  
 25 U.S.C. 2201(w)) is amended—



1           (1) by striking “, or which operates any facility  
2           regulated or certified under section 1701 or 1702,”;

3           (2) by striking “483a” and inserting “9701”;  
4           and

5           (3) by inserting before the period at the end the  
6           following: “, and, commencing October 1, 2000, pre-  
7           scribe and collect from any other Government agency  
8           any fee, charge, or price that the Commission may re-  
9           quire in accordance with section 9701 of title 31,  
10          United States Code, or any other law”.

## 11       ***TITLE II—OTHER PROVISIONS***

### 12       ***SEC. 201. OFFICE LOCATION.***

13          Section 23 of the Atomic Energy Act of 1954 (42  
14       U.S.C. 2033) is amended by striking “; however, the Com-  
15       mission shall maintain an office for the service of process  
16       and papers within the District of Columbia”.

### 17       ***SEC. 202. LICENSE PERIOD.***

18          Section 103c. of the Atomic Energy Act of 1954 (42  
19       U.S.C. 2133(c)) is amended—

20               (1) by striking “c. Each such” and inserting the  
21       following:

22       “c. *LICENSE PERIOD.*—

23               “(1) *IN GENERAL.*—Each such”; and

24               (2) by adding at the end the following:

1           “(2) *COMBINED LICENSES.*—*In the case of a*  
 2           *combined construction and operating license issued*  
 3           *under section 185(b), the initial duration of the li-*  
 4           *cence may not exceed 40 years from the date on which*  
 5           *the Commission finds, before operation of the facility,*  
 6           *that the acceptance criteria required by section 185(b)*  
 7           *are met.”.*

8   **SEC. 203. ELIMINATION OF NRC ANTITRUST REVIEWS.**

9           *Section 105 of the Atomic Energy Act of 1954 (42*  
 10          *U.S.C. 2135) is amended by adding at the end the following:*

11          “(d) *APPLICABILITY.*—*Subsection (c) shall not apply*  
 12          *to an application for a license to construct or operate a*  
 13          *utilization facility under section 103 or 104(b) that is pend-*  
 14          *ing on or that is filed on or after the date of enactment*  
 15          *of this subsection.”.*

16   **SEC. 204. GIFT ACCEPTANCE AUTHORITY.**

17          (a) *IN GENERAL.*—*Section 161g. of the Atomic Energy*  
 18          *Act of 1954 (42 U.S.C. 2201(g)) is amended—*

19                 (1) *by inserting “(1)” after “(g)”;*

20                 (2) *by striking “this Act;” and inserting “this*  
 21          *Act; or”; and*

22                 (3) *by adding at the end the following:*

23                 “(2) *accept, hold, utilize, and administer gifts of*  
 24          *real and personal property (not including money) for*

1        *the purpose of aiding or facilitating the work of the*  
 2        *Nuclear Regulatory Commission.”.*

3        *(b) CRITERIA FOR ACCEPTANCE OF GIFTS.—*

4                *(1) IN GENERAL.—Chapter 14 of title I of the*  
 5        *Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.)*  
 6        *is amended by adding at the end the following:*

7        **“SEC. 170C. CRITERIA FOR ACCEPTANCE OF GIFTS.**

8                *“(a) IN GENERAL.—The Commission shall establish*  
 9        *written criteria for determining whether to accept gifts*  
 10        *under section 161g.(2).*

11                *“(b) CONSIDERATIONS.—The criteria under subsection*  
 12        *(a) shall take into consideration whether the acceptance of*  
 13        *the gift would compromise the integrity of, or the appear-*  
 14        *ance of the integrity of, the Commission or any officer or*  
 15        *employee of the Commission.”.*

16                *(2) CONFORMING AND TECHNICAL AMEND-*  
 17        *MENTS.—The table of contents of chapter 14 of title*  
 18        *I of the Atomic Energy Act of 1954 (42 U.S.C. prec.*  
 19        *2011) is amended by adding at the end the following:*

*“Sec. 170C. Criteria for acceptance of gifts.”.*

20        **SEC. 205. CARRYING OF FIREARMS BY LICENSEE EMPLOY-**  
 21                **EES.**

22                *(a) IN GENERAL.—Chapter 14 of title I of the Atomic*  
 23        *Energy Act of 1954 (42 U.S.C. 2201 et seq.) (as amended*  
 24        *by section 204(b)) is amended—*

1           (1) in section 161, by striking subsection k. and  
2           inserting the following:

3           “(k) authorize to carry a firearm in the performance  
4 of official duties such of its members, officers, and employ-  
5 ees, such of the employees of its contractors and subcontract-  
6 tors (at any tier) engaged in the protection of property  
7 under the jurisdiction of the United States located at facili-  
8 ties owned by or contracted to the United States or being  
9 transported to or from such facilities, and such of the em-  
10 ployees of persons licensed or certified by the Commission  
11 (including employees of contractors of licensees or certificate  
12 holders) engaged in the protection of facilities owned or op-  
13 erated by a Commission licensee or certificate holder that  
14 are designated by the Commission or in the protection of  
15 property of significance to the common defense and security  
16 located at facilities owned or operated by a Commission li-  
17 censee or certificate holder or being transported to or from  
18 such facilities, as the Commission considers necessary in the  
19 interest of the common defense and security;” and

20           (2) by adding at the end the following:

21   **“SEC. 170D. CARRYING OF FIREARMS.**

22           “(a) *AUTHORITY TO MAKE ARREST.*—

23           “(1) *IN GENERAL.*—A person authorized under  
24 section 161k. to carry a firearm may, while in the  
25 performance of, and in connection with, official du-

1        *ties, arrest an individual without a warrant for any*  
 2        *offense against the United States committed in the*  
 3        *presence of the person or for any felony under the*  
 4        *laws of the United States if the person has a reason-*  
 5        *able ground to believe that the individual has com-*  
 6        *mitted or is committing such a felony.*

7                *“(2) LIMITATION.—An employee of a contractor*  
 8        *or subcontractor or of a Commission licensee or cer-*  
 9        *tificate holder (or a contractor of a licensee or certifi-*  
 10        *cate holder) authorized to make an arrest under para-*  
 11        *graph (1) may make an arrest only—*

12                *“(A) when the individual is within, or is in*  
 13        *flight directly from, the area in which the offense*  
 14        *was committed; and*

15                *“(B) in the enforcement of—*

16                *“(i) a law regarding the property of*  
 17        *the United States in the custody of the De-*  
 18        *partment of Energy, the Nuclear Regulatory*  
 19        *Commission, or a contractor of the Depart-*  
 20        *ment of Energy or Nuclear Regulatory*  
 21        *Commission or a licensee or certificate hold-*  
 22        *er of the Commission;*

23                *“(ii) a law applicable to facilities*  
 24        *owned or operated by a Commission licensee*

1                   or certificate holder that are designated by  
2                   the Commission under section 161k.;

3                   “(iii) a law applicable to property of  
4                   significance to the common defense and se-  
5                   curity that is in the custody of a licensee or  
6                   certificate holder or a contractor of a li-  
7                   censee or certificate holder of the Commis-  
8                   sion; or

9                   “(iv) any provision of this Act that  
10                  subjects an offender to a fine, imprison-  
11                  ment, or both.

12               “(3) *OTHER AUTHORITY.*—The arrest authority  
13               conferred by this section is in addition to any arrest  
14               authority under other law.

15               “(4) *GUIDELINES.*—The Secretary and the Com-  
16               mission, with the approval of the Attorney General,  
17               shall issue guidelines to implement section 161k. and  
18               this subsection.”.

19               (b) *CONFORMING AND TECHNICAL AMENDMENTS.*—  
20               The table of contents of chapter 14 of title I of the Atomic  
21               Energy Act of 1954 (42 U.S.C. prec. 2011) (as amended  
22               by section 204(b)(2)) is amended by adding at the end the  
23               following:

                  “Sec. 170D. *Carrying of firearms.*”.

1 **SEC. 206. UNAUTHORIZED INTRODUCTION OF DANGEROUS**  
 2 **WEAPONS.**

3 *Section 229a. of the Atomic Energy Act of 1954 (42*  
 4 *U.S.C. 2278a(a)) is amended in the first sentence by insert-*  
 5 *ing “or subject to the licensing authority of the Commission*  
 6 *or to certification by the Commission under this Act or any*  
 7 *other Act” before the period at the end.*

8 **SEC. 207. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.**

9 *Section 236a. of the Atomic Energy Act of 1954 (42*  
 10 *U.S.C. 2284(a)) is amended—*

11 *(1) in paragraph (2), by striking “storage facil-*  
 12 *ity” and inserting “storage, treatment, or disposal fa-*  
 13 *cility”;*

14 *(2) in paragraph (3)—*

15 *(A) by striking “such a utilization facility”*  
 16 *and inserting “a utilization facility licensed*  
 17 *under this Act”; and*

18 *(B) by striking “or” at the end;*

19 *(3) in paragraph (4)—*

20 *(A) by striking “facility licensed” and in-*  
 21 *serting “or nuclear fuel fabrication facility li-*  
 22 *censed or certified”; and*

23 *(B) by striking the period at the end and*  
 24 *inserting “; or”; and*

25 *(4) by adding at the end the following:*

1           “(5) any production, utilization, waste storage,  
2           waste treatment, waste disposal, uranium enrichment,  
3           or nuclear fuel fabrication facility subject to licensing  
4           or certification under this Act during construction of  
5           the facility, if the person knows or reasonably should  
6           know that there is a significant possibility that the  
7           destruction or damage caused or attempted to be  
8           caused could adversely affect public health and safety  
9           during the operation of the facility.”.

Amend the title so as to read: “An Act to extend the authority of the Nuclear Regulatory Commission to collect fees through 2005, and for other purposes.”.